

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

SHAWN RAE HANCOCK,

Plaintiff,

v.

WASHOE COUNTY, *et al.*,

Defendants.

Case No. 3:22-cv-00218-MMD-CSD

ORDER

Pro Se Plaintiff Shawn Hancock brings this action under 42 U.S.C. § 1983 and the Americans with Disabilities Act to redress civil-rights violations he claims he suffered while incarcerated at the Washoe County Detention Facility. (ECF No. 4.) On June 6, 2022, the Court ordered Hancock to file an amended complaint by July 6, 2022. (ECF No. 3 at 12.) The Court warned Hancock that the action could be dismissed if he failed to file an amended complaint by that deadline. (*Id.*) That deadline expired, and Hancock did not file an amended complaint, move for an extension, or otherwise respond.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of L.A.*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its docket; (3) the risk

1 of prejudice to the defendants; (4) the public policy favoring disposition of cases on their
2 merits; and (5) the availability of less drastic alternatives. See *In re Phenylpropanolamine*
3 *Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

4 The first two factors, the public's interest in expeditiously resolving this litigation
5 and the Court's interest in managing its docket, weigh in favor of dismissal of Hancock's
6 claims. The third factor, risk of prejudice to defendants, also weighs in favor of dismissal
7 because a presumption of injury arises from the occurrence of unreasonable delay in filing
8 a pleading ordered by the court or prosecuting an action. See *Anderson v. Air W.*, 542
9 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of
10 cases on their merits—is greatly outweighed by the factors favoring dismissal.

11 The fifth factor requires the Court to consider whether less drastic alternatives can
12 be used to correct the party's failure that brought about the Court's need to consider
13 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
14 that considering less drastic alternatives *before* the party has disobeyed a court order
15 does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
16 Cir. 2002) (explaining “the persuasive force of” earlier Ninth Circuit cases that “implicitly
17 accepted pursuit of less drastic alternatives prior to disobedience of the court's order as
18 satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled with the
19 warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*). Courts “need
20 not exhaust every sanction short of dismissal before finally dismissing a case, but must
21 explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779 F.2d 1421,
22 1424 (9th Cir. 1986).

23 Because this action cannot realistically proceed until and unless Hancock files an
24 amended complaint, the only alternative is to enter a second order setting another
25 deadline. But the reality of repeating an ignored order is that it often only delays the
26 inevitable and squanders the Court's finite resources. The circumstances here do not
27 indicate that this case will be an exception as there is no hint Hancock needs additional
28 time or evidence that he did not receive the Court's screening order. Setting another

1 deadline is not a meaningful alternative given these circumstances. Thus, the fifth factor
2 favors dismissal. Having thoroughly considered these dismissal factors, the Court finds
3 that they weigh in favor of dismissal.

4 It is therefore ordered that this action is dismissed without prejudice based on
5 Plaintiff Shawn Hancock's failure to file an amended complaint in compliance with this
6 Court's June 6, 2022 order and for failure to state a claim.

7 The Clerk of Court is directed to enter judgment accordingly and close this case.
8 No other documents may be filed in this now-closed case. If Hancock wishes to pursue
9 his claims, Hancock must file a complaint in a new case.

10 DATED THIS 19th Day of July 2022.

11
12
13
14 
15 MIRANDA M. DU
16 CHIEF UNITED STATES DISTRICT JUDGE
17
18
19
20
21
22
23
24
25
26
27
28